IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3785 OF 2006

Gurunath Barkuram Chaudhari ...Applicant

v/s

The State of Maharashtra ...Respondents

Mr Ganesh Gole for Applicant.

Mr S.S. Pednekar, A.P.P. for Respondents.

Mr Samir Vaidya for Original Complainant.

CORAM : S.C. DHARMADHIKARI J.

DATE : 17TH NOVEMBER 2006.

P.C. :-

1. Heard Shri Gole appearing for applicant, Shri Pednekar appearing for State and Shri Vaidya appearing for original complainant.

2. The applicant is accused No.7 in C.R. No.I-90/2006 registered at Taloja Police Station, Raigad alleged to have committed an offence punishable under sections 302, 147 to 149 and 324 of I.P.C. alongwith other offences under the Arms Act and Bombay Police Act.

3. With the assistance of the learned Advocates appearing for both the sides, I have perused the statements of Darshan Jagannath Kadu and Jagannath Raghunath Kadu. It appears that the dispute was going on between Jagannath and Pandurang over management of the temple in the village. It is alleged that once the management was handed over to Jagannath, Pandurang was agitating and at a function (marriage ceremony) the incident took place. It is alleged that the applicant alongwith others was armed with sticks. There are some accused who were armed with iron rods. Firstly Jagannath was attacked and thereafter his son Vijay, who later on succumbed to the injuries was attacked. From perusal of the statement of eye witness Jagannath, it is

clear that the applicant was armed with a wooden stick. The assault on the deceased Vijay was of the iron rod. The iron rod was not with the present applicant but in the hands of Pandurang and one Bharat. As far as recovery is concerned, wooden sticks have been recovered at the instance of the present applicant.

4. In the peculiar facts of this case and when the only apprehension appears to be that both the families are residing within the close vicinity of each other, I am inclined to grant this application by imposing appropriate conditions.

5. Hence, following order :-

i) The applicant arrested in connection with C.R. No.I-90/2006 registered with Taloja Police Station, Raigad shall be enlarged on bail in the sum of Rs.10,000/- with one or two local sureties in the like amount.

ii) The bail is granted subject to the condition that the applicant will remain present before nearest police station once a week on every Saturday between 7.00 p.m. and 9.00 p.m. till conclusion of the trial. The applicant shall reside out of village

Ranjanpada till the conclusion of the trial.

iii) The order of bail will be given effect only after the applicant furnishes to the Investigating Officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigating Officer.

iv) The bail is granted subject to condition that the applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the

case at the time of trial.

vii) Application is disposed off in above terms.

viii) Parties to act on an authenticated copy of this order.